



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

13 October 2022

Report of the Director of Legal & Democratic Services and Monitoring Officer

Annual Review Letter of the Local Government & Social Care Ombudsman (LGSCO) 2021-22

(Corporate Services and Budget)

1. Divisions Affected

1.1 County Wide

2. Key Decision

2.1 This is not a key decision

3. Purpose

3.1 The purpose of this report is to inform Cabinet of the Local Government and Social Care Ombudsman's (LGSCO) Annual Review letter for the year ended 31 March 2022.

4. Information and Analysis

4.1 The LGSCO's Annual Review letter 2021/22, giving details of the total number of complaints for Derbyshire County Council for the year ending 31 March 2022, is attached as Appendix 2 for consideration. All of the Ombudsman's annual review letters are published on their website.

- 4.2 The aim of the Annual Review Letter is to provide councils with information which will help them assess their performance in handling complaints.
- 4.3 For the period ending 31 March 2022, the LGSCO received 86 complaints and enquiries relating to Derbyshire County Council. The 86 complaints compares to 81 complaints for Derbyshire in the period 2020/21 (an increase of 6%).
- 4.4 Looking specifically at the decisions made by the LGSCO for the period ending 31 March 2022, there were 30 detailed investigations carried out, of which 6 were not upheld and 24 were upheld. This gives an upheld rate of 80%. By way of comparison in 2020/21 the LGSCO investigated 19 complaints against the Council; this represents an increase in complaints investigated in 2021/22 of 37%.
- 4.5 In respect of the 24 complaints upheld by the LGSCO in 2021/22 the LGSCO found fault and suggested a remedy in respect of each case and the remedies were acceptable to the Council.
- 4.6 In terms of the 24 complaints upheld by the LGSCO these can be identified in relation to the following County Council departments:

Department	Number of decisions against the Council
Adult Care	8
Children's Services	13
Place	3

Details of the 24 complaints and the remedies are set out in Appendix 3

- 4.8 In respect of compliance with the LGSCO's recommendations which is a relatively new statistic now recorded by the Ombudsman, of the 19 complaints where compliance with the recommended remedy was recorded during the year, the Council complied with all the recommended remedies giving a compliance rate of 100%.
- 4.9 Of the 24 upheld decisions the Ombudsman found that in 2 cases (8%) the Council had provided a satisfactory remedy before the complaint reached the Ombudsman. This compares to an average of 8% in similar organisations.

- 4.10 The LGSCO has issued guidance on Effective Complaint Handling for local authorities which advises:

“Section 5/5A of the Local Government and Housing Act 1989 places a requirement on every council’s Monitoring Officer to prepare a formal report on all Ombudsman complaint decisions. We support a flexible approach to how councils discharge this duty as long as the intent is fulfilled in some meaningful way, and a council’s performance in relation to Ombudsman investigations is properly communicated to elected members. As a guide, we suggest:

Where we have made findings of fault in regard to routine mistakes and service failures, and you agree to remedy the complaint by implementing our recommendations, the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. In a small authority this may be adequately addressed through an annual report on complaints to members, in a large County or Metropolitan authority this might need to be more frequent.”

5. Consultation

- 5.1 No consultation is necessary.

6. Alternative Options Considered

- 6.1 Not to inform Cabinet of the LGSCO’s Annual Review letter for the period ending 31 March 2022; however it is considered important that the Executive are informed of the Annual Review letter to enable proper oversight of complaints.

7. Implications

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

8. Background Papers

- 8.1 None identified.

9. Appendices

- 9.1 Appendix 1- Implications
9.2 Appendix 2 – Annual Review letter
9.3 Appendix 3 – Details of the 24 upheld cases

10. Recommendation

10.1 That Cabinet notes the Annual Review letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2022.

11. Reasons for Recommendation

11.1 To ensure that the Executive is aware of the contents of the LGSCO Annual Review letter and has oversight of complaints made.

12. Is it necessary to waive the call-in period?

12.1 No

Report Author: Paul Peat

Contact details: Paul.Peat@derbyshire.gov.uk.

Implications

Financial

- 1.1 Payments have already been made to the complainants in accordance with the recommendations of the LGSCO.

Legal

- 2.1 The Local Government and Social Care Ombudsman's powers are defined by the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007.
- 2.2 The LGSCO cannot question whether a Council's decisions are right or wrong simply because the complainant disagrees with them. He must consider whether there was fault in the way the decision was reached. (Local Government Act 1974, section 34(3)).
- 2.3 The LGSCO will generally only investigate a complaint where the complainant has exhausted the council's corporate complaints process. It is therefore important that the council maintains a robust complaints procedure.
- 2.4 The LGSCO has the power to make recommendations to a public authority following a complaint, however the recommendations are not mandatory. Findings and recommendations are however published by the LGSCO.
- 2.5 A formal investigation report was issued in respect of one of the complaints referred to in the Annual Letter which was formally reported to Cabinet by the Monitoring Officer in accordance with statutory obligations in s.5A Local Government and Housing Act 1989. During the period April 2021 – March 2022 no such reports of maladministration have been received from the LGSCO.
- 2.6 The Council's Constitution provides that one of the roles and function of the Governance, Ethics and Standards Committee is '11. *To receive regular reports on the of the Corporate Complaints process, Local Government Ombudsman referrals and to recommend revisions to related policies and procedures as appropriate*'. A report will therefore also be prepared for the Committee.

Human Resources

3.1 None directly arising from this report.

Information Technology

4.1 None directly arising from this report.

Equalities Impact

5.1 As this is a statutory report in response to the findings of the Local Government and Social Care Ombudsman no equality impact assessment has been prepared.

Corporate objectives and priorities for change

6.1 None

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None directly arising from this report.